

APS-275

June 16, 2005

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. **05-2419**

EASTERN SAVINGS BANK

VS.

CAROLINE P. AYRES-FOUNTAIN

(D.DEL. CIV. NO. 04-CV-00347)

Present: SLOVITER, NYGAARD AND FUENTES, CIRCUIT JUDGES

Submitted are:

- (1) By the Clerk for possible dismissal due to a jurisdictional defect;
- (2) By the Clerk is the within appeal for possible summary action pursuant to 3rd Circuit Local Appellate Rule 27.4 and Chapter 10.6 of the Court's Internal Operating Procedures;
- (3) Appellee's response;
- (4) Appellant's response;
- (5) Appellant's motion for relief from judgment;
- (6) Appellant's motion to strike appellee's jurisdictional response; and
- (7) Appellant's motion for judicial notice

in the above-captioned case.

Respectfully,

Clerk

MMW/RL/dmm

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ORDER

Caroline P. Ayres-Fountain appeals the District Court's order remanding the case against her to state court. An order remanding a case to state court is not reviewable on appeal or otherwise unless the case was removed pursuant to 28 U.S.C. § 1443. 28 U.S.C. § 1447(d). Here, Ayres-Fountain stated in her notice of removal that the case was being removed pursuant to 28 U.S.C. §§ 1441 & 1446. Accordingly, the appeal will be dismissed for lack of jurisdiction. Ayres-Fountain's motions for judicial notice, for relief from judgment, and to strike appellee's jurisdictional response are denied.



Marcia M. Waldron

Marcia M. Waldron, Clerk

By the Court,

/s/ Julio M. Fuentes
Circuit Judge

Dated: June 28, 2005
DMM/cc: Ms. Caroline P. Ayres-Fountain
Laura M. Egerman, Esq.
John R. Weaver Jr., Esq.